

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

W.P.(C).No.4806 of 2007(V)

PETITIONERS:-

1. C.M.JOSEPH, KUNJAMATTIL HOUSE,
VALAVOOR P.O., PALA, KOTTAYAM DISTRICT,
WORKING AS: THE SECRETARY,
VALAVOOR SERVICE CO-OPERATIVE BANK LTD.NO.K.91,
VALAVOOR P.O., MEENACHIL TALUK, KOTTAYAM DISTRICT.
2. K.N.PRABHAKARAN NAIR, KOCHUPURACKAL HOUSE,
KLALATHOOKADAV P.O., PALA, KOTTAYAM DISTRICT,
RETIRED FROM SERVICE AS:
THE BRANCH MANAGER,
THALAPPULAM SERVICE CO-OPERATIVE BANK LTD.NO.3937,
PLASSANAL P.O., MEENACHIL TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.SUNIL CYRIAC
SMT.N.SINDHU

RESPONDENTS:-

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. SECRETARY TO GOVERNMENT,
CO-OPERATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.
3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.
4. KERALA STATE CO-OPERATIVE EMPLOYEES' PENSION BOARD,
P.B.NO.85, KALA NIVAS, TC NO.27/156, 157,
CHINMAYA LANE, KUNNUMPURAM, NEAR AYURVEDA COLLEGE,
THIRUVANANTHAPURAM-1, REPRESENTED BY ITS SECRETARY.

R1 BY SENIOR GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN.

R4 BY ADV. SRI.V.G.ARUN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:-

EXT.P1 - TRUE COPY OF G.O.(P) NO.129/06/CO-OP. DATED 12TH JULY, 2006,
VIZ., KERALA STATE CO-OPERATIVE EMPLOYEES' SELF FINANCING
PENSION (AMENDMENT) SCHEME, 2006.

EXT.P2 - TRUE COPY OF THE KERALA STATE CO-OPERATIVE EMPLOYEES' SELF
FINANCING PENSION SCHEME, 1994 AS IT STOOD PRIOR TO EXT.P1
AMENDMENT.

EXT.P3 - TRUE COPY OF THE LETTER BEARING NO.PB/PRO/129/06 DATED
16.10.2006 ISSUED BY THE 4TH RESPONDENT.

EXT.P4 - TRUE COPY OF THE REPRESENTATION DATED 29.11.2006 SUBMITTED TO
THE HON'BLE MINISTER FOR CO-OPERATION.

RESPONDENT'S EXHIBITS: NIL.

- TRUE COOY -

K.Padmanabhan Nair,J.

W.P.(C).No.4806 of 2007-V

Dated, this the 23rd day of February, 2007

JUDGMENT

The petitioners are challenging sub-clause (d) of paragraph 2 of the Kerala Co-operative Societies Employees Self Financing Pension (Amendment) Scheme, 2006 as unconstitutional, void and unenforceable. Paragraph 2(d) of the Amendment Scheme limits the average pay for calculating pension payable to an employee whose service is less than 30 years at Rs.20,000/-. According to the petitioners, they are having more than 32 years of service. So, since the petitioners have put in more than 30 years of service, the provisions contained in paragraph 2(d) of the Amendment Scheme will not apply to them. They are entitled to get pension under the old Scheme. So, there is no need to consider the vires of the said Scheme in this case.

In the result, the writ petition is disposed of in the above terms.

K.Padmanabhan Nair
Judge

vku/-